

support the patentably distinct nature of the species of claim 102 from the genus claimed herein.

Accordingly, applicants herewith submit a Lavelle Declaration for that purpose. The contents of the Declaration which include relevant comparative data establishes the unexpected superiority of the species of claim 102. See In re Chapman, 357 F.2d 418 (CCPA 1966); and In re Lamberti, 545 F.2d 747 (CCPA 1976).

The comparative in vitro and in vivo anti-tumor test data demonstrates the superiority of the species of claim 102 over the two closest structurally related compounds; both of which are referenced in U.S. Patent No. 5,254,580.

Dr. Lavelle concludes:

Based upon the results of the biological evaluation shown in the above Tables A and B, it is my professional opinion that compound I is the superior anti-tumor compound in comparison to the closely related compounds II and III in that compound I is about 2-3 fold more effective than compounds II and III in vitro and by the T/C x 100 and the log cell kill in the in vivo study.

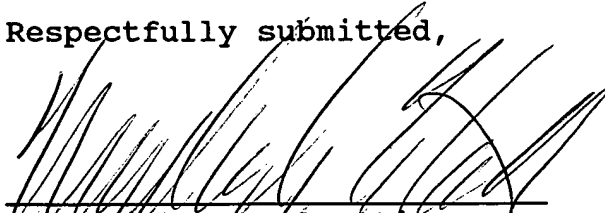
It is my further opinion that the superiority of Compound I over compounds II and III is unexpected in view of their close structural similarities, one having the TAXOTERE nucleus, the other the TAXOL nucleus, and their apparently minor structural differences as described above.

It is respectfully requested that the interference requested by applicants in their REQUEST FOR INSTITUTION OF AN INTERFERENCE UNDER 37 C.F.R. §1.607 between the present application and U.S. Patent No. 5,254,580 to Chen et al. be declared with a second count, namely,

Count: The compound N-debenzoyl-N-t-butoxycarbonyl-  
7-deoxy-8-desmethyl-7,8-cyclopropataxol.

Respectfully submitted,

Dated: 12/29/94

  
Frederick F. Calvetti  
Registration No. 28857

EM:bw

MORGAN & FINNEGAN  
1299 Pennsylvania Avenue, N.W.  
Suite 960  
Washington, D.C. 20004  
(202) 857-7887  
Fax: (202) 857-7929